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ABSTRACT

A discussion is presented on the feasibility of developing and encouraging more profit-making private schools. The point is made that there are structural obstacles to improvement and reform in the public schools: (1) teacher unions are strong and primarily interested in teacher benefits, not student welfare; (2) state and federal regulation severely limits local autonomy and decision-making authority; and (3) political and educational leaders have a larger personal stake in the appearance of reform than in its actual existence. The argument is offered that private schools can adopt policies and practices that are legally prohibited or too costly politically to adopt in public schools; e.g., the right to search lockers at any time for drugs means stronger control of student behavior. It is pointed out that the greater effectiveness of private schools may be due not to greater expertise but to greater legal freedom to adopt the most effective social technology. Suggestions are made on effectively contracting out educational services and using competition between profit-making schools to improve education. (JD)

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Cato Institute Policy Analysis No. 75

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MARKET SOLUTIONS TO THE EDUCATION CRISIS

by Myron Lieberman

In recent years, hundreds of prestigious reports, studies, surveys, recommendations, and policy statements have told us what's wrong with education and what to do about it. Nevertheless, significant reform in public education has not occurred, nor is it occurring. Why is this, and what must be done to increase educational achievement in the United States?

To answer these questions, the issues ignored in the reform reports have to be recognized.[1] One is the role of the two teacher unions, the National Education Association (NEA) and the American Federation of Teachers (AFT) and their state and local affiliates.[2] The vast majority of proposed reforms either are subject to bargaining or would affect teacher unions in major ways, whether or not subject to bargaining. Proposals for a longer school year, a longer school day, more individual attention to pupils after school, more teacher-parent conferences, restrictions on courses taken for salary credit, deletion or reduction of some non-academic subjects, easier dismissal of incompetent teachers, and more in-service training for teachers would adversely affect the terms and conditions of teacher employment. Teacher unions exist to maximize teacher benefits, not to represent pupils or parents or the community. Of course, at some point, teacher interests must be subordinated to other interests, but the political influence and bargaining power of teacher unions frequently ensure an indefensibly high priority for teacher interests.

Significantly, teaching is perhaps the most heavily unionized major occupation in the United States. In 1984, 72.5 percent of the nation's public school teachers were covered by collective bargaining agreements negotiated with teacher unions.[3] The unions will not accept, and cannot be forced to accept, reforms that would reduce teacher benefits as long as public school teachers enjoy monopoly or near-monopoly status. Nevertheless, the reform reports blithely ignore the existence and role of teacher unions. For example, the most prestigious and highly publicized reform report, A Nation At Risk, makes no reference to the subject; not even one of the more than 40 position papers prepared for its sponsors deals with it.[4] The omission is

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particularly egregious because teacher unions have more power than private-sector unions to block changes to which they are opposed.

Similarly, for all intents and purposes, the education-reform reports ignore the teacher-tenure laws enacted in over 40 states.[5] Although teacher-tenure laws vary widely, several severely restrict school-district ability to replace teachers who are incompetent or who are no longer needed because of program changes or declining enrollments. By ignoring this problem, the reformers have conveyed the erroneous impression that it is not an obstacle to school improvement.

In addition, none of the reform reports recommend changes in the governance structure of education or even raise it as an issue. Textbook legislation illustrates the importance of this omission. In some states, local districts must choose textbooks or receive state aid only for textbooks from a state-approved list. The list might not include the textbooks sought by a local district. It may be several years before the list is to be revised, and even then there is no assurance that a desired text will be included on it.[6]

In short, despite all the rhetoric about local autonomy, most local school boards operate within a framework of state and federal regulation and judicial decision that severely limits their decision-making authority. Consequently, public education is characterized by many groups with veto power and virtually none with "do power." Authority is diffused among parents, local school boards, municipal and county governments, state legislatures, state departments, state boards, state superintendents of education, independent educational agencies, institutions of higher education, judicial bodies, administrative agencies, and state employment-relations boards, and by federal statutes and judicial decisions. The vast majority of citizens, even the most sophisticated, are unable to protect their educational interests in this situation.

For the most part, it is not necessary to debate whether proposed changes constitute genuine reform or merely a fine-tuning of the status quo. Most of the proposed changes are not going to happen, regardless of whether there would be beneficial consequences. For example, some reform reports allege that teacher training requires too many courses in pedagogy and too few in the subjects taught. The fact is, however, that at least a dozen books and scores of articles have expressed this criticism since 1950.[7] There is little reason to believe that the same criticism will be more influential now than it was in the past.

To put it bluntly, educational reform simply cannot surmount the hurdles in the way of basic changes in public educa-

tion. Isolated, ad hoc improvements are possible, but large-scale institutional improvement is not, at least under the present governance and regulatory framework of education. Educational deterioration is at least as likely as improvement in the next five to ten years.

The Illusion of Educational Reform

Despite the absence of meaningful educational reform, the illusion that reform is taking place is widespread among the public and the media. The most important fact here is that political and educational leaders have a larger personal stake in the appearance of reform than in its actual existence. To the nation as a whole, the important question is whether educational improvement is taking place. To political and educational leaders, however, the question most important to their reelection or reappointment is whether the public believes improvement is taking place and perceives them as actively supporting reforms. As far as such leaders are concerned, it would be nice if reform became a reality, but their careers depend more upon appearances.

Consider how the appearance of reform overshadows the substance (or lack of substance) of it. One year after A Nation At Risk was released, Secretary of Education Terrel Bell made the following comments:

The Administration has taken a number of actions in response to the commission's report. Some of them include:

Submitting an education budget that would be the largest in history, if enacted, for the 1985 budget.

Increasing state bloc grant funding by 52 percent and focusing the Department of Education's discretionary funds on activities to promote excellence.

Launching an initiative aimed at diminishing and ultimately eradicating adult illiteracy.

Creating the Secondary School Recognition Program to recognize the nation's outstanding high schools.

Raising public awareness of the close relationship between discipline and learning. . . .

When the commission issued its report, it hoped it would serve as a clarion call for improvement. Fortunately for our nation, that hope is rapidly becoming a reality. We are witnessing a tidal wave of reform, unprecedented in its breadth and support, that promises to restore excellence as the hallmark of American education.[8]

The largest education budget in history? The budget was submitted in an election year, was the largest by only the slimmest of margins, and was followed by substantial reductions in the FY 1986 education budget. "Launching an initiative" to reduce illiteracy? In other words, the administration had no concrete progress to report. "Raising public awareness of the close relationship between discipline and learning"? The Gallup Poll on education has shown that the public has considered the need for more discipline in the schools as the top educational priority for over 10 years.[9] In short, there is a "tidal wave" of rhetoric but not of reform. It is hardly surprising, however, that Secretary Bell (and President Reagan) perceived a tidal wave of reform taking place. The Reagan administration is acutely sensitive to the criticism that it is anti-education because of its cutbacks in federal aid to education. If educational reforms were being achieved despite reduced federal aid, the Reagan administration would stand to benefit politically.[10]

The administration has also exaggerated the anticipated benefits of its reform proposals. A case in point is the rhetoric surrounding its proposal to "voucherize" Title I funds, i.e., to allow the parents of disadvantaged children to use Title I funds for educational vouchers that can be applied to the costs of attending nonprofit private schools.[11] The idea is a good one and deserves support. Nevertheless, intense opposition to it by the public education establishment has forced the administration to claim more for the proposal than it would be likely to deliver. If and when the voucher proposal is enacted, the administration will have a large stake in persuading the public that the legislation has achieved beneficial results, whether or not there are any.

To be fair, the tendency to exaggerate characterizes the opponents as well as the proponents of educational vouchers. For example, the teacher unions have attacked the voucher proposal as a cruel hoax perpetrated on poor parents.[12] According to the unions, the proposal is a hoax because the vouchers would not be large enough to cover the costs of attending a private school. At the same time, however, the unions criticize the proposal for shifting needed funds away from public schools. Obviously, if the voucher is too small to allow students to attend private schools, it would also be too small to significantly affect the level of support for public education. Furthermore, the argument ignores the fact that any transfer of funds to private schools would be accompanied by a decrease in the number of pupils in public schools.

Public officials are not the only group creating the illusion of educational reform. Some of the most prestigious--and fallacious--reform reports were sponsored by major philanthropic foundations. These reports ignore the interest groups opposed

to reforms. For example, High School: A Report on Secondary Education in America, a lavishly publicized reform report sponsored by the Carnegie Foundation for the Advancement of Teaching, makes only one reference to teacher unions; the reference is to a 1913 study sponsored by the NEA.[13] Similarly, High School says nothing about the governance structure of education, teacher tenure, or the other structural obstacles to reform.

"Family Choice" Policies

To its credit the Reagan administration is reducing federal regulation of public education. Its major policy initiatives, however, are education vouchers and education tax credits. These policies are commonly referred to as "family choice" measures because they are intended to strengthen the ability of families to enroll their children in the nonprofit private schools of their choice.

Family-choice measures would be a step in the right direction because private schools are not subject to several obstacles that block public school reform. On both instructional and non-instructional matters, their governing bodies can act more quickly and decisively. They are not subject to tenure and teacher bargaining laws. They can make decisions on instructional matters unimpeded by state textbook commissions and state restrictions and mandates. In many states, private schools do not have to employ state-certified teachers. Although many do so, their legal freedom to ignore certification requirements constitutes a major advantage in utilizing personnel effectively. Furthermore, private schools can enforce rules of student conduct that cannot be imposed in public schools. In short, the administration appears headed in a direction that can achieve basic reform.

Family-choice proposals, however, may fail to generate constructive change for a long time, perhaps decades. At the federal level, education tax credits will be difficult to implement in view of the federal deficit. At the same time, the administration's voucher proposals have encountered massive resistance in Congress, first in 1983 and again in 1986. The opposition has forced the administration to drop its efforts to get such legislation enacted at this time. Commenting on the administration's decision to "wait until next year," when a drastically revised bill might be introduced, a leading opponent of the proposal commented, "I hope we get a vote. We'll crush them, we'll drive a stake through their hearts." [14]

Even if the administration's proposals did become law, difficult problems would remain. First, there might well be a shortage of private schools willing or able to enroll a large influx of new students. Private schools would be understandably

reluctant to add teachers and facilities for students who might be eliminated at the next session of Congress. Second, education vouchers may cover a student's tuition, or most of it, but parents would still face other expenses that would weaken their ability to use the vouchers. Third, the lengthy amount of time that would be required to enact the family-choice legislation, draft and approve the implementing regulations, identify schools willing and able to enroll the students, get the information out to parents, operate the program long enough to allow meaningful evaluations of it, and factor the evaluations into the legislative process--all in the face of guerrilla warfare by the opponents of the legislation--means that educational reform through federal family-choice measures could not happen any time soon. By the same token, state legislation on family choice, even if enacted in the near future, would not necessarily bring about any dramatic changes for a long time to come.

In at least one respect, the opponents of family-choice measures are probably right: once enacted, family-choice programs would likely expand. Nevertheless, immediate large-scale transfers to private schools are unlikely. Parents who in opinion polls or questionnaires express an intention to transfer their children to private schools may change their minds when faced with such realities as the additional expense and time required to send their children to private schools.

Family-choice proposals, especially vouchers, can vary on several critical issues: the amount of the voucher, pupil eligibility, school eligibility, treatment of pupils who move in or out of the state or school district, the regulation of voucher schools, and tax treatment of supplemental expenditures. Therefore, it is difficult to generalize confidently about the consequences of voucher plans. The political, educational, and financial consequences of the plans may differ, and objections to one plan may not necessarily apply to others. However, a major weakness of the administration's plan and of virtually all proposed state legislation on the subject is the fact that the proposed vouchers could not be used in profit-making schools. This omission is unjustified, at least insofar as the rationale for vouchers is family choice; the arguments used to justify family choice are just as applicable to profit-making schools as to nonprofit schools.

In addition, the appeal to the virtues of competition by nonprofit schools is misplaced. Most nonprofit schools are denominational. To the extent that pupils enroll in them for denominational reasons, there is no "competition"; public schools are not expected to compete with private schools in indoctrinating religious views. In fact, parents who enroll their children in school for religious reasons may view school performance in nonreligious subjects as irrelevant to their choice of school.[14]

This has always been the position of Amish parents, who have a long history of opposition to public schools.[15] In practice, however, even decisions to enroll children in religious schools are often influenced by perceptions of school effectiveness in teaching nonreligious subjects and in inculcating good habits of work and citizenship. For this reason, comparisons of public and private school performance are very important.

In fact, these comparisons present a mixed picture when the students being compared are equal in scholastic aptitude, socioeconomic background, and other relevant factors. Overall, the data suggest a modest aggregate superiority of private over public schools. Probably the reasons for the superiority are more controversial than its existence, which is not present in all grades and subjects. The most likely reason is the greater decision-making freedom of private schools, i.e., the fact that private schools can adopt policies and practices that are legally prohibited or too costly politically to adopt in public schools. For example, a private school can demand the right to search lockers or purses at any time as a condition of admission; public schools cannot. Thus, to the extent that private schools achieve better discipline and more effective avoidance of drugs, the reason may be their greater freedom to take protective action. Insofar as public schools cannot legally adopt the practices that account for private-school superiority, competition between public and private schools cannot improve public school performance. Certainly, there is little reason to believe that teachers in private schools possess more expertise than teachers in public schools; for that matter, not a single important educational practice or innovation has originated in U.S. private schools in the past several decades.

Of course, the reasons pupils learn more in private schools (if they do) may be unimportant to parents. Whatever the reasons, many parents will enroll their children in private schools as long as they believe the latter have a margin of superiority. This is understandable and rational, but policymakers cannot be as indifferent as parents to the basis for any private-school superiority. Depending upon what it is, the policy implications may be to eliminate the restrictions in public schools rather than foster enrollments in private schools.

Furthermore, some nonprofit schools have no interest in expanding their enrollments. Their exclusivity is their stock in trade; expansion would undermine it. On this issue, religious as well as status considerations may be decisive. The Amish schools are not interested in enrolling non-Amish pupils; on the contrary, the Amish established their own schools so that Amish children would not have to associate with non-Amish children. The Amish schools are successful in achieving the objectives of the Amish community, but they do not and are not

intended to generate improvements in other schools. The point is not to denigrate Amish schools in any way; it is that the "competition" envisaged by family-choice advocates does not necessarily lead to increased enrollments in nonprofit schools or widespread incorporation of better practices in public schools. To the extent that private schools cannot or will not expand, and the public schools cannot incorporate the operative features of private schools, their coexistence cannot be regarded as "competition," let alone as competition that leads ultimately to better education in the public schools.

Profit-Making Schools

Fortunately, family-choice measures are not the only way that competition can be introduced into public education. One alternative is to encourage profit-making private schools; another is to encourage school districts to contract out instructional as well as non-instructional services to private contractors, preferably profit-making ones. Before discussing these alternatives, it may be useful to consider what is likely to be the most common objection to each, namely, that entrepreneurs would exploit children to maximize profits. This objection will be discussed in terms of profit-making schools, but the analysis is equally applicable to profit-making contractors.

One can easily visualize how profit-making schools might exploit their pupils: Incompetent teachers might be hired because they are inexpensive. Charges for textbooks and supplies might be padded. Meals in the school cafeteria could be of low quality. Grades and test scores might be inflated to foster the illusion of academic achievement and thereby encourage enrollments. Children with special needs might be ignored to cut costs. Huckster-type advertising campaigns might be waged to recruit students, not only criticizing public schools unfairly but raising unrealistic hopes and expectations.

Before considering the exploitation argument directly, an assumption implicit in it must first be challenged. The assumption is that pupils in public schools are not exploited for profit by public school teachers. Unfortunately, they are. For example, public school teachers have gone on strike for higher salaries hundreds of times in recent years. In these strikes, teachers have frequently done the following: made records inaccessible so that substitutes could not teach effectively; told pupils not to attend school if their teachers were on strike, thus encouraging them to violate the compulsory-attendance laws; refused to give credit for student work performed during a strike; used children on picket lines; encouraged children to lead student walkouts and student efforts to disrupt and discredit school operations; discussed actual or threatened strikes in classes,

where it was not relevant to the curriculum, in order to gain student and parental support; and created fears among students that their opposition to a teacher strike or even their refusal to support it could lead to reprisals against the students.

Such conduct is nothing if not exploitation of students for profit, but it is hardly the only way public school teachers profit at their students' expense. Public school teachers frequently tutor their own pupils for pay without regard to the conflicts of interest inherent in such tutoring. They sometimes use their teaching positions to recruit students for summer camps operated for profit. High school athletics provides many examples of exploitation of students for the welfare of their coaches; in some cases, colleges were virtually forced to employ a high school coach in order to recruit an outstanding high school athlete.

Above and beyond all this, the most glaring and harmful examples of exploitation of public school students are the laws that ostensibly serve pupil interests but actually promote teacher or teacher-union interests. For example, teacher unions support the minimum-wage laws at least in part to protect the job market for teachers. In addition, the tremendous overemphasis on remaining in school, diplomas and degrees, excessive educational requirements to work at certain jobs, teacher licensing, and the legalization of teacher dismissals (even of competent or outstanding teachers) for failure to pay union dues suggest that public education has some exploitation problems of its own.

The point is not to characterize public school teachers as unduly self-seeking. As a group, they are no more self-seeking than any other group. The point is simply that exploitation of pupils for profit does occur in public education. In some ways, such exploitation is more difficult to remedy in public education precisely because it goes on beneath a veneer of serving children.

One need not believe that private-school leaders are superior in this regard; no doubt many of them likewise support many policies purportedly for the welfare of children but actually for their own welfare. Regardless, the restrictions on private schools originate more in the self-interest of public school teachers and administrators than out of any demonstrable relationship to the welfare of children. In any event, the problems of exploitation arise regardless of whether schools are public, private and nonprofit, or private and profit-making.

For that matter, children are served by doctors, dentists, and a host of other profit-making professionals. Although these professionals can and occasionally do take advantage of children, no one proposes that only publicly funded professionals serve

them. Why should entrepreneurial schools be more of a threat to children than entrepreneurial doctors and dentists? Considered objectively, it is only a historical accident that teachers but not doctors or dentists are normally paid from public funds. Indeed, as E. G. West has pointed out, there was a time in the United States when education was virtually universal, but paid for privately.[16]

In any case, the states can and do regulate private schools, nonprofit and profit-making alike. The states can establish teacher-certification standards, spell out the curriculum, adopt health and safety requirements, and otherwise protect pupils against exploitation in schools, public or private, profit-making or nonprofit. Needless to say, this is not to argue for more regulation or any particular regulation but merely to point out that profit-making schools do not pose any novel educational or regulatory issues. What is needed, however, is not so much regulation as objective feedback about how schools and pupils are doing. At present, education is overregulated and usable feedback is not provided to parents and policymakers. Avoidance of this misplaced emphasis on regulation would be highly desirable for both public and private schools.

The Advantages of Entrepreneurial Schools

On motivational grounds alone, administrators and teachers who could share directly in the profits of better schools are more likely to promote pupil achievement and welfare than those who do not, whether in public or nonprofit private schools. Granted, the nonprofit private sector has more flexibility than the public sector to compensate management for superior performance. Nevertheless, the incentive system in the nonprofit sector is basically similar to that in the public sector. In any event, the absence of profit incentives must be regarded as a major reason for the failure of nonprofit schools to develop a superior technology of education, despite their much greater freedom to do so. Nonprofit managers are not accustomed to thinking entrepreneurially, that is, to visualizing the profit-making possibilities in the school situation.

One must also consider the advantages of looking upon education as a market. Profit-making schools would be less inhibited by problems of scale. Denominational schools, realizing that their market share is limited, tend to be unwilling to develop or invest in technology that requires a larger market share to be feasible.

Furthermore, the nature and context of public discussion of education would change significantly as profit-making schools played a more prominent role in education. Conceptually, denomi-

national schools do not compete on the basis of their ability to teach secular subjects and skills more effectively. Practically, they cannot ignore the issue, but heavy emphasis upon it is risky. If denominational schools compete on secular criteria, they are abandoning their unique advantage. Furthermore, they run the risk of losing in the competition, a risk that is avoidable to the extent that their appeal is religious. Also, denominational criticism of public schools may generate intra-denominational problems. For example, Catholic parishes that operate parochial schools are likely to have parishioners who are parents or teachers of public school pupils. Under these circumstances, criticism of public schools tends to be understated and low-key.

In contrast, managers of profit-making schools would not operate under such inhibitions. They could advertise: "We teach reading and writing and arithmetic--and teach it better." Perhaps they might be willing to provide a money-back guarantee. In any case, they would openly and explicitly assert claims of superiority on secular criteria and generate comparisons of results and reasons for differences on the basis of these criteria. In some subjects and dimensions of behavior, comparison shoppers might find it difficult to compare schools, but that would be less of a problem than the existing near absence of comparisons.

In some cases, profit-making schools could provide prompt confirmation of their superiority. For instance, they could insist upon appropriate student conduct and advertise the fact. Consequently, their customers would expect discipline as part of their educational purchase from the outset. This option is equally available to nonprofit and profit-making schools. The importance of such "social technology"--school rules governing student speech, dress, and conduct, and incentives that foster student effort and achievement--should not be underestimated; utilization of the most effective social technology may be the most effective route to significant educational improvement, at least in the short run. As suggested earlier, the greater effectiveness of private schools may be due not to greater expertise but to greater legal freedom to adopt the most effective social technology.

Although competition based on social technology is important, the failure to develop or to use major breakthroughs in educational hardware--breakthroughs that reduce the labor-intensive nature of education--remains a critical issue. Experience with support services as well as experience outside of education strongly suggest that progress in this area is likely to come from the profit-making sector if it is to come at all.

ServiceMaster, an Illinois corporation providing maintenance, custodial, and energy services to both the public and private sectors, may be cited as a model. Its clients include

approximately one of every seven hospitals in the United States, and it is currently expanding its penetration of education markets: schools, school districts, and colleges. Not surprisingly, the company's technological capability in its area of service far exceeds that of any hospital or school district. That is, its ability to prevent maintenance problems and resolve the ones that arise depends partly upon a data base, backup technology, and training program that no single employer, public or private, could hope to match. Significantly, the company could not have developed its superior technology if its markets had been limited by geography, political structure, or religious denomination. Larger markets do not ensure technological innovation, but they are certainly conducive to it. Educationally speaking, however, even schools of the same denomination cannot be regarded as necessarily a single market. Frequently, denominational schools are administratively fragmented despite their religious unity. Partly for this reason, they are not a promising source of instructional technology.

Although the ServiceMaster example has to do with contracting out rather than with profit-making schools, the relevant principles are applicable to both. The labor-intensive nature of education is unlikely to be reduced unless education is treated as a huge market, justifying large-scale R & D efforts to develop a profit-making educational technology. To date, the improvements in educational hardware, such as computers and copying machines, have originated in profit-making firms that sell to both educational and non-educational markets. By comparison, the educational innovations that have originated in education itself are not very impressive, to say the least.

One major obstacle to a large-scale increase in profit-making schools is the high cost of real estate in metropolitan areas. Paradoxically, real estate costs are typically not factored into the official per-pupil costs of public education. Obviously, the omission conceals the real cost of public education and hence tends to foster support for public over private schools.

The greatest threat to the potential of profit-making schools is that they may be denied opportunities to compete for students. The most immediate example is the Reagan administration's proposed Equity and Choice Act of 1985. As proposed by the administration, the act would have allowed educational vouchers to be used only in nonprofit schools. Whether the exclusion of profit-making schools was deliberate or inadvertent, it reflects a major failure to utilize competition to improve education. Indeed, profit-making schools and contractors could probably implement the avowed purposes of the act more quickly and effectively than nonprofit schools. Be that as it may, surely it would not be a mistake to provide profit-making schools an

opportunity to compete for disadvantaged students. For that matter, parents should be allowed to redeem the vouchers for home schooling under certain circumstances. This option might sometimes be desirable from a governmental as well as a parental point of view.

Contracting Out Educational Services

Instead of employing teachers to provide instruction, school boards might contract with private profit-making companies to provide it. Such an approach would not provide individual parents with consumer choice, but it could have several advantages over family-choice measures where profit-making schools were not feasible. In any event, contracting out and family choice could coexist.

Contracting out in education is not new. Many school districts already contract out transportation, food service, testing, data processing, printing, legal services, labor negotiations, and a host of other services. That is, instead of hiring employees who work under the direction of school management, school boards frequently employ independent contractors to perform certain services. The reasons vary but usually relate to the greater efficiency of contracting out. Furthermore, contracting out often saves school authorities an impressive amount of time and energy. For example, suppose a school district contracts out maintenance and custodial services. The district no longer has to recruit, employ, train, and supervise the employees who perform these services. It may not have to purchase maintenance supplies or perform repairs. At both the administrative and board levels, the savings in time can be substantial. Contractors can be especially helpful to school boards, which typically lack sufficient time for their policy-making and evaluation functions.

For various reasons, however, school boards have not routinely contracted out instructional services, even when the rationale for doing so was clearly present. For example, high schools that lack adequate physics teachers do not usually seek out contractors to provide physics instruction; instead, they offer watered-down physics courses taught by teachers with little competence in the subject.

Contracting out instruction would have the tremendous advantage of bypassing most of the regulatory apparatus that inhibits improvements in public education. Private contractors would not necessarily be subject to the textbook restrictions, tenure laws, or state bargaining laws and would not have to be given excessive retirement benefits or a host of other statutory benefits that escalate costs without any corresponding in-

crease in productivity. Moreover, contracting out instruction would not require any drastic change in the governance structure of public education. School boards would still be in place, as would most of the legislation that inhibits their effectiveness. Contracting out would not repeal this legislation; it would bypass it.

Indeed, it can reasonably be argued that school boards ought to contract out instruction routinely, not as an extraordinary measure. The very act of employing a teacher tends to tilt the administration in favor of the teacher. Principals, personnel directors, and superintendents do not like to admit that they have employed or retained incompetent teachers. It would be more efficient for the administration--and beneficial to the students--to assign the hiring of teachers to a contractor and to devote more board time to policy issues and evaluation of the contractor's services. Certainly, it would often be easier not to rehire a contractor than to dismiss tenured board employees.

Family-choice legislation can be enacted in a way that does not, on its face, seek to strengthen private at the expense of public education. As a matter of fact, Minnesota legislation eventually upheld by the U.S. Supreme Court[17] provided tax deductions for the expenses of both public and non-public education. Of course, the impact of the legislation was to strengthen private schools, since the tax deductions were much more substantial for pupils attending private schools. This pattern is likely to continue. Thus, even when family-choice legislation applies to both public and private schools, it will typically be opposed by the entire public-education establishment.

This need not be the case with legislation (if any be needed) to enable school boards to utilize independent contractors instead of employees to perform various services. No school board need be required to contract out; it would simply be a management option. Many boards and administrators might welcome the option, not only as a means of securing high-quality instructional services at low cost but as a way to strengthen their hand in dealing with both teacher and non-teacher unions.

Most school boards bemoan the large amounts of time they devote to housekeeping and administrative duties. But they have no choice as long as fixing a leaking toilet must be placed on a board agenda and the action taken must be approved by the board. In other words, contracting out may have advantages that not only avoid the regulatory apparatus but actually should be utilized regardless of the apparatus. As school boards and administrators become more aware of the advantages of contracting out, they may become more receptive to privatization policies that are not based upon a family-choice rationale.[18]

For that matter, one can expect some groups of teachers to defect from union ranks on the issue of privatization. Suppose, for example, that a school board were to contract with a teacher corporation for instructional services. The parties might agree on a fee that was somewhat less than the overall cost of conventional operations. The teachers, having an entrepreneurial interest in increased productivity, would certainly want to avoid union rules against flexibility in assignment; if they were the managers instead of the managed, the union-negotiated restrictions upon management would not likely be so attractive to them.

Furthermore, it would be extremely difficult for a teacher union to oppose contracting out to teacher corporations. To do so would clearly position the union against the interests of teachers. Note also that contracting out instruction could drastically upgrade the professional status of teachers. They would no longer be able to blame their problems on management. They would have clients--clients who could be lost, or who could provide a springboard to greater financial and professional success.

Needless to say, more extensive use of contracting out in public education entails some risks that do not characterize family-choice proposals. One is the danger of graft and corruption in awarding service contracts. Perhaps because of the larger number of citizens directly involved and the importance and duration of their involvement, corruption would be more difficult in education than in, say, city governments, but the danger is there regardless. Of course, whatever the magnitude of the danger, it underscores the advantages of resolving educational issues through the economic instead of the political system.

Using Competition to Improve Education

Why has the Reagan administration emphasized privatization through nonprofit schools and virtually ignored privatization through profit-making schools and contracting out? The answer lies partly in the fact that the administration's educational activists are intellectually and politically oriented to nonprofit schools. These activists view the strengthening of nonprofit schools as "the" answer, without regard to the concrete circumstances under which competition must operate in order to generate widespread consumer benefits.

At the same time, the administration's opposition to federal spending for public education has drastically reduced the chances that public school leaders will play an active role in the administration. Of course, many of these leaders supported or at

least voted for the Reagan-Bush ticket, as did many of the teachers. It is likely, however, that most did so for non-educational reasons. It would have been difficult to achieve leadership positions in teacher unions or school-board or school-administrator organizations on a platform of strengthening private schools and reducing federal aid to public education.

Under the circumstances, therefore, it is not surprising that the programmatic thrust of the Reagan administration in educational reform should be "competition" that benefits nonprofit private schools but not "competition" that strengthens public or profit-making private schools. Needless to say, strengthening nonprofit schools would hardly impress most citizens as an adequate educational program. The administration's solution to this problem has been simply to assert that as a result of "competition," aid to nonprofit schools will improve public schools also. In any event, to achieve the potential benefits of competition in education, every means by which competition for profit can be brought to bear upon the educational process must be explored.

FOOTNOTES

[1] The criticisms of reform reports made in the present article are not intended to apply to A Nation Prepared: Teachers for the 21st Century, the report of the Task Force on Teaching as a Profession of the Carnegie Forum on Education and the Economy, which was not available in time to be considered here.

[2] The omission is documented and discussed in Myron Lieberman, Beyond Public Education (New York: Praeger Publishers, 1986), pp. 19-45.

[3] Memorandum, Bureau of Labor Statistics, undated.

[4] National Commission on Excellence in Education, A Nation At Risk (Washington: Government Printing Office, 1983).

[5] Lieberman, pp. 80-107.

[6] Lawyers Committee for Civil Rights Under Law, State Standards for the Provision of Public Education: An Overview (Washington: National Institute of Education, 1978), pp. 95-97.

[7] Some of the books are listed in Lieberman, p. 18.

[8] New York Times, April 28, 1984, p. 4.

[9] Stanley M. Elam, A Decade of Gallup Polls of Attitudes Toward Education, 1969-1978 (Bloomington, Ind.: Phi Delta Kappa, 1978); and subsequent September issues of the Phi Delta Kappan.

[10] See also Lieberman, pp. 14-15, 164-65.

[11] The reference is to the Equity and Choice Act of 1985, sponsored by Secretary of Education William J. Bennett and introduced by Sen. Orrin G. Hatch.

[12] See, for example, Mary H. Futrell, "Vouchers: The Hoax Is Transparent," Education Week, January 8, 1986, p. 14.

[13] Ernest L. Boyer, High School: A Report on Secondary Education in America (New York: Harper & Row, 1983).

[14] Bruce Hunter, as quoted in Education Week, April 2, 1986, p. 12.

[15] See Albert M. Keim, ed., Compulsory Education and the Amish (Boston: Beacon Press, 1975).

[16] E. G. West, The Economics of Education Tax Credits (Washington: Heritage Foundation, 1981), pp. 12-13.

[17] Mueller v. Allen, 77 L. Ed. 721 (1983).

[18] The author is currently working on a book devoted to various efforts to contract out both instructional and non-instructional services.

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